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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,707	08/05/2003	W. Jean Dodds	58034-011800	8325

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SANTA MONICA, CA 90404

EXAMINER

WHALEY, PABLO S

ART UNIT	PAPER NUMBER
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1631

MAIL DATE	DELIVERY MODE
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05/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/635,707

Applicant(s)

DODDS, W.

Examiner

Pablo Whaley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 25 is/are rejected.
- 7) ☒ Claim(s) 4 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' response, filed 03/08/2007, has been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied, as necessitated by amendment. They constitute the complete set presently being applied to the instant application.

CLAIMS UNDER EXAMINATION

Claims 1-18 and 25 are herein under examination. Claims 19-24 and 26-39 have been cancelled.

OBJECTIONS

Claim 4 is objected to because of the following informalities: Claim 4 should recite "wherein the toolbar functions...". Appropriate correction is required.

Claim 7 is again objected to because of the following informalities: Claim 7 should recite "dependent." Appropriate correction is required.

TERMINAL DISCLAIMER

The terminal disclaimer filed 03/08/2007 is acceptable. The *Provisional Obviousness-Type Double Patenting Rejection* is hereby withdrawn.

CLAIM REJECTIONS - 35 USC § 112, 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-9 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6-9 and 15-18 now recite "A method as claimed in claim 5 including grouping the icons...". This limitation recites active language which, in the context, makes it unclear whether said "including grouping" is intended to be an additional active method step (i.e. grouping of icons), or a further limitation of the menu of claims 5 and 14, which includes a toolbar and icons (i.e. grouped icons). Clarification is requested via clearer claim language. *This rejection is necessitated by amendment.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-18 and 25 remain rejected under 35 U.S.C. 103(a) as being made obvious by Barnhill et al. (US Pat. 6,248,063; Filed Dec. 22, 1997), in view of Mayaud et al. (US Pat. 5,845,255; Issued: Dec. 1, 1998) and Jensen et al. (J. Comp. Path., 1996, Vol. 114, p.339-346), as set forth in the Office action mailed 12/18/2006.

Applicant's arguments, filed 03/08/2007, that the above references (i) do not remotely relate to the features of instant claim 1, (ii) do not relate to obtaining and electronically delivering a diagnosis of the health of an animal through a combination of computerized data and human interpretation, and (iii) do not relate to animal disease diagnosis are not persuasive for the following reasons.

In response to applicant's arguments, Barnhill et al. clearly teach technology for receiving patient data from another location, analyzing the data in a trained neural network, producing a diagnostic value, and transmitting the diagnostic value to another location [Abstract]. As set forth in the previous office action mailed 12/18/2006, the invention of Barnhill et al. includes methods for diagnosing in humans or animals, a system for receiving data from data transmitting stations, processing data to produce a diagnostic value or prognostic value (i.e. reporting analysis), and transmitting values to a remote data receiving means (i.e. satellite facility) [Col. 1, lines 15-35]. Barnhill et al. also teach collecting patient physical data [Col. 7, lines 40-50], which is a teaching for data obtained from physical inspection, as required by Specie A. Barhill et al. also teach a first computer program/system linked to a second computer program/system that clearly provide functionality for humans to "interact" by transferring electronic data between computers and to a remotely located clinician's office through a network [Col. 7, lines 20-30] and [Fig. 15], by obtaining integrated reports of computer generated data [Fig. 10], and by reporting analysis indicative of a diagnosis (i.e. report). Barnhill et al. also teach digitizing the data [Col. 7, lines 40-50], processing data using neural networks to produce a

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diagnostic value or prognostic value, and transmitting these values to a remote data receiving means (i.e. satellite facility) [Col. 1, lines 15-35]. As the instant claims do not recite any limitations that would serve to illustrate in what way the health of an animal is assessed through a "combination of computerized data and human interpretation", the Examiner maintains that Barnhill et al. teach the assessment of health through computer generated reports and diagnostic values which are based on patient data. Therefore, the Examiner maintains that Barnhill et al. indeed teach features as required by claim 1.

The Examiner acknowledged that Barnhill et al. do not specifically teach "drop-down menus" or "tool bars", "supplemental reports", or "enhanced" reports. Furthermore, Barnhill et al. do not specifically teach thyroid disease, as in claims 8 and 17. However, Barnhill et al. do suggest that their system could be used for diagnosis of any disease [Col. 7, lines 34-35] and do suggest diagnosis by the subjective analysis of measured data by a clinician, veterinarian, or other health care provider is imprecise [Col. 1, lines 50-55], which motivates the use of computer-assisted diagnosis.

As set forth in the previous office action mailed 12/18/2006, Mayaud et al. teach a wireless electronic prescription and remote data retrieval system for physician use [Abstract]. Mayaud et al. teach drop down menus within a diagnostic report (i.e. supplemental report) containing computerized data [Fig. 3, 5, 7, and 8] and further entry of drug data by a physician to create an updated physicians list (i.e. enhanced report) [Fig. 8, 15, and Fig. 21], which is clearly a teaching for human interaction with computerized data. Mayaud et al. also teach predetermined supplemental report characteristics (i.e. problems associated with various disorders) [Fig. 14], as in claims 5 and 14; icons grouped for name, age, and gender [Fig. 2] and disease states [Fig. 6 and 10], as in claims 6, 7, 15, and 16; customizable tools bar with email communication [Col. 12, lines 18-25], as in claims 3 and 12; drop down menus that "supplement" word processing

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applications (i.e. text is pre-typed) [Fig. 10], as in claims 4 and 13; icons comprising drug concentrations and drugs better suited to teach specific disorders [Fig. 3 and 11] and methods for analyzing patient-drug interactions [Ref. Claim 31], which is a teaching for "immunity for disease agents" in claims 9 and 18; and toolbars whereby physicians can add new conditions to the system [Fig. 13]. Therefore, the Examiner maintains that has broadly and reasonably interpreted the instant claims to encompass the teaching of Mayaud et al. and that Mayaud et al. indeed teach features that relate to the instantly claimed invention, as set forth above. Jensen et al. was indeed applied to provide evidence of data sets for dogs with thyroid disease, wherein data is specifically represented in columns and grouped by clinical description, breed, sex, age, and TSH concentration levels (i.e. titer of immunity) [Table 1]. Applicant has not set forth any arguments directed to Jensen et al.

For the reasons and motivation set forth above and in the previous office action mailed 12/18/2006, the Examiner maintains that Barnhill et al. combined with Mayaud et al. and Jensen et al. make obvious all aspects of the claimed invention. This rejection is therefore maintained.

CONCLUSION

No Claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Whaley whose telephone number is (571)272-4425. The examiner can normally be reached on 9:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached at 571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER

